

**Testimony of Chris Stearns  
Chairman,  
Seattle Human Rights Commission**

**Hearing on the Seattle Human Rights Commission Report and  
Presentation on Police Reforms**

**Before the Committee on Public Safety, Civil Rights and Technology  
Seattle City Council**

**February 15, 2012**

Good afternoon Chairman Harrell and members of the Committee. My name is Chris Stearns and it is my honor to serve as the Chairman of the Seattle Human Rights Commission. The Commission was founded in 1963 to protect and advocate for the human rights and equal treatment of all people who live and work in Seattle. I want to thank you for this opportunity to provide our views on the subject of police reform, and in particular, oversight in the City of Seattle.

While the Commission has testified before the Council's Civil Rights, Energy & Technology Committee, we are pleased to have the new opportunity to discuss human rights and police reform before the Public Safety Committee. We want to especially recognize the Chairman's hard work and leadership on police accountability. On September 15, 2010, you were the first Council Member to hold a hearing in the wake of the John T. Williams shooting and really dig into the issue of police accountability with the public. And you have led the Council and City on the effort to require police officers to wear body-mounted video cameras.

Just this week, KOMO TV news broke the story that a police officer threatened to make up a charge of robbery against two black citizens who were arrested for an assault they did not commit. That threat would never have been discovered had it not been for an audio recording from a dash cam video that KOMO tracked down. By the time of the news report, the Office of Professional Accountability had already investigated and exonerated the officer who made the threat.

It is instances like these that create a deep distrust in the minds and hearts of many Seattle citizens when it comes to the issue of excessive use of force and racially biased policing. The million dollar question is – how can the City's leaders restore that trust?

**The Commission Report**

In 2011 the Commission undertook an exhaustive review of police accountability practices in cities across the country against the backdrop of several key human rights principles. Those principles are set forth in Appendix A. The Commission issued a report on January 8, 2012 which outlines the Commissions' concerns about effective oversight of policing in Seattle and concludes with three recommendations.

To summarize our report, the Commission recommends that:

1. The City Council enact legislation enhancing the powers of the Office of Professional Accountability Review Board to function as an independent appeals panel for the investigation of police misconduct complaints. The enhanced Board should have all of the power and funding necessary to independently and professionally investigate misconduct cases.
2. The City should work with the community to bring a collaborative agreement to address police reform. The process should include all stakeholders, including police, and should include reforms to improve police service that are not included in the consent decree.
3. The City should work with experts to identify and create new baseline standards to measure whether certain aspects of policing (use of force, drug arrests, false arrests, pedestrian stops, gang-related arrests, etc.) result in a disproportionate impact on communities of color within Seattle. The City should use Seattle's Racial Equity Toolkit to further analyze data and improve service.

### **Independent and Effective Oversight**

An independent and effective complaints system is essential for securing and maintaining public trust and confidence in the police, and will serve as fundamental protection against ill-treatment and misconduct. An independent police complaints body should form a pivotal part of such a system.

The Commission understands that police work is inherently difficult and dangerous. Yet failure to adhere to the law and police policies undermines public trust and confidence, lessens cooperation from the community, and inhibits crime prevention. Effective oversight can limit police conduct that violates the law and it can restore public confidence in police practice.

Another essential element of effective oversight is citizen participation. Oversight should offer both police officers and citizens the opportunity to fully present their case. Citizens should have the opportunity to observe and participate in the oversight process and serve on an oversight board, commission, or agency.

If a police complaint system is not fair, the public, the complainants and witness officers, and the city government, all the transparency in the world will not help other than to reveal the worm in the core of the apple. It will not fix the system in and of itself.

### **Human Rights Concerns**

Basic human rights principles require that citizens have the ability to obtain due process and an appropriate remedy when their rights are violated, even if a government official commits the act.

The United Nations Human Rights Committee has consistently interpreted due process to require that the person or panel making the final decision over proceedings be impartial in regards to the

matter before them; that parties have access to witnesses and evidence; that the decision process be open to the public and subject to appeal; and that the remedy be commensurate with the offense.

Applying this analysis, human rights law would require the following elements in police oversight:

1. An independent, neutral agency or agencies be tasked with oversight and be fully vested with the power to investigate and impose discipline as necessary.
2. Police officers and citizens have an equivalent opportunity to be heard – they can fully present their respective perspectives to the oversight authority without fear of reprisal, and can appeal an adverse decision to an independent decision-maker; and
3. The process is sufficiently transparent to allow the public ample opportunity to observe and participate in the oversight process.

Seattle's current oversight structure does not meet these requirements and should be restructured. Our report identified three major flaws:

1. The Police Chief has sole discretion to accept or reject the OPA Director's disciplinary recommendations.
2. The OPA Auditor does not have independent authority to review or overturn the Police Chief's disciplinary decisions
3. The OPA Review Board does not have the authority to review the evidence the OPA Director relied upon, nor does it have independent authority to overturn the Police Chief's decision.

### **Recommendations**

As described earlier, the Commission's report identified three recommendations. For purposes of our testimony today, we focus on our first recommendation – the creation of an independent police oversight agency. First let me state that the Commission's report specifically recommends restructuring the Office of Professional Accountability Review Board. We are not wed just to that model. Instead, our recommendations should be read to reflect that the goal of creating an independent and effective oversight entity. It could be OPARB or it could be something else. We have attached a list of other oversight models used by other cities in Attachment B.

We chose OPARB because of the simple fact that it already exists. Under our proposal, the Council could restructure OPARB or create a new body that would have the power to investigate and review police misconduct complaints in a fair, thorough, and impartial manner. It is critical to its success that the oversight entity have sufficient resources and power.

Our recommendation would allow citizens to appeal the outcomes of police misconduct cases. Specifically, a citizen would have the right to appeal the findings of the Office of Professional Accountability (OPA) that are accepted by the Police Chief. We do not believe that all cases should

qualify for appeal but at a minimum, cases for appeal should include use of force, discrimination, retaliation, harassment, and coercion.. The new oversight agency would then have the power to conduct an independent review of the case on a *de novo* basis. Citizens will be notified of this right upon receiving the OPA decision.

The new agency will have the power and sufficient staff resources, including professional investigators, to fully investigate the cases it hears on appeal. That will include subpoena power. The Council should ensure that the Seattle Police Department will be required to cooperate fully with the agency and provide complete, unrestricted and immediate access to records and all information available to the OPA Director.

We believe that civilian insight is extremely valuable, offering new views and insights to the investigative process and the ability to challenge assumptions or biases that may sometimes limit an investigation. We further believe that enhanced civilian involvement will help rebuild community trust in SPD and further improve the overall quality of SPD investigations.

We do not propose at this time limiting or transferring powers of the OPA Director and the OPA Auditor. The OPA Auditor will continue to identify patterns of, or trends in, misconduct, recommend or develop improvements in police policies, procedures, tactics, and training that will serve to increase police integrity and improve the performance of SPD.

### **Conclusion**

In conclusion, we believe that the creation of a new independent, effective, and citizen-led police oversight agency is a fundamental part of police reform that is necessary in order to restore the public's trust in the Seattle Police Department.

This concludes my testimony at this time.

## Attachment A

### International Covenant on Civil and Political Rights

Signed by United States in 1977

Ratified by United States in 1992

ICCPR	Right	Police Problem	Remedy
Article 6, Sec.1	Every human being has the inherent right to life. No one shall be arbitrarily deprived of life.	Excessive use of force	Criminal prosecution; Independent, neutral police oversight
Article 7,	No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.	Excessive use of force	Criminal prosecution; Independent, neutral police oversight
Article 9, Sec.1	Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.	Excessive use of force	Criminal prosecution; Independent, neutral police oversight
Article 10, Sec.1	Anyone who is arrested or detained must be treated with humanity and respect for their inherent dignity.	Excessive use of force	Criminal prosecution; Independent, neutral police oversight
Article 2, Sec. 3(a)	Anyone whose rights or freedoms are violated shall have an effective remedy, even if the violation was committed a government official.	Excessive use of force Biased policing Lack of Police Accountability	Right to fair, prompt, adequate, and independent hearing
Article 2, Sec. 3(b)	An effective remedy means the right to competent judicial, administrative or legislative authorities, or any other competent authority within the legal system.	Lack of Police Accountability	Right to fair, prompt, adequate, and independent hearing
Article 2, Sec. 3(c)	Remedies shall be enforced by competent authorities.	Lack of Police Accountability	Independent, neutral police oversight
Article 2, Sec. 1	The government must “respect and ensure the rights ... without distinction of any kind, such as race, color, sex, language, religion ... ”	Excessive use of force Biased policing	Independent, neutral police oversight
Article 26	Every person is equal before the law and is equally entitled to due process protections and equal protection of the law without discrimination.	Biased policing Lack of police accountability	Right to fair, prompt, adequate, and independent hearing

## Attachment B

**National Police Oversight Models**

<b>City</b>	<b>Board</b>	<b>Membership</b>	<b>Cases Investigated</b>	<b>Independent of Police</b>	<b>Subpoena Power</b>	<b>Disciplinary Power</b>
Dayton	Citizens' Appeals Board	5 members 1 law enforcement 1 legal 3 community members	Citizen appeals of findings of Dayton Police Dept.'s investigation of police misconduct claims	Yes	Yes	No
Knoxville	Police Advisory and Review Committee	7 members	Appeal of police investigations; may refer cases back to Police for further investigation; may investigate cases on own.	Yes	Yes	No
Portland	Civilian Review Committee	9 members	Citizen appeals. Part of the Indpt Police Review Division. IPR determines if appeals heard.	Yes	No	No
Los Angeles	Office of the Inspector General	Civilian Inspector General	May investigate and review any police complaints by LAPD Internal Affairs.	Yes	Yes	No
Washington, DC	Office of Police Complaints	5 members	Original complaints of use of force, retaliation, discrimination, verbal abuse, harassment. Separate from Metro Police Dept. complaint process	Yes	Yes	No
Chicago	Independent Police Review Authority	Civilian Chief Administrator	investigates use of force, police shootings, deaths in custody, domestic violence, verbal, abuse, bias	Yes	Yes	No